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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: RM-8643

Dear Mr. Caton:

In accordance with Section 1.1206 (a) (2) of the Commission's Rules, 47 C.F.R. § 1.1206 (a) (2) (1991), this is to notify the Commission that on August 9, 1995, Jay Kitchen and Mark Golden of the Personal Communications Industry Association ("PCIA") and Steve Apcel and Gina Harrison of Pacific Bell Mobile Services, on behalf of the PCIA, met with Rosalind Allen, Dan Phythyon, and Gina Keeney.

The purpose of this meeting was to discuss the challenges facing the PCS industry. The subjects discussed are fully reflected in the attached summary and article, which was left with the staff. Should you have any questions regarding this matter, please call me.

Respectfully submitted,



Suzanne Yelen

/dws
Attachments

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List A B C D E

CHALLENGES FACING THE PCS INDUSTRY

The FCC has put significant effort into establishing a framework for the auctioning of 2 GHz spectrum for the provision of new Personal Communications Services (PCS) and the transition of the band from fixed microwave operations to PCS. The Personal Communications Industry Association (PCIA) has played a major role working with the PCS industry and the Commission to facilitate the deployment of the new products and services that will change the face of the communications industry. As the time for actual deployment of these new services arrives, it is critical that the Commission act quickly to remove some obstacles that threaten the successful conclusion of all of the Commission's work over the last several years. PCIA urges the FCC to take rapid steps to resolve these issues, some of which only require clarification of the PCS Rules while others may require a rulemaking proceeding.

ISSUES REQUIRING CLARIFICATION:

Microwave Incumbents Are Entitled Under FCC Rules to a Comparable System, Not Premium Payments. The Commission should clarify its rules and clearly state that the 2 GHz transition rules are to protect incumbents from injury due to relocation and not to be used to extract additional payments above the cost of a comparable system from PCS providers. Some incumbents seem to misunderstand the FCC's regulations and believe that they are free to threaten to delay deployment of PCS unless large premiums are paid.

A Public Notice Starting the Voluntary Relocation Period for Microwave Relocation for All PCS Spectrum Blocks Should Be Promptly Issued. The Commission announced that the start date for A and B Block voluntary microwave relocation periods was April 5, 1995. However, A and B Block licensees may need to clear microwave links from the adjacent channels in the C, D, E and F Blocks in order to deploy their systems. Therefore, a public notice should be released which starts the voluntary negotiation period for all PCS blocks. PCIA notes that starting the voluntary negotiation period in no way changes the one year notification that microwave licenses are guaranteed in the rules. (Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, 8 FCC Rcd 6589, 6595 ¶ 15 (1993)).

The 12 Month Testing Period for Relocated Microwave Licensees Should Begin When the Cut-Over to the New System Occurs. The transition rules should be clarified to state that the 12 month testing period for an incumbent's new system begins when the incumbent starts using the new system. This will eliminate any ambiguity as to when the new system is accepted.

When the 12 Month Testing Period Ends, the Party Holding the License Should Surrender the Authorization and the FCC Should Issue a Public Notice Stating That the Link Has Been Decommissioned. So that there is no confusion among PCS licensees trying to deploy their systems as to which microwave licenses are still authorized, the microwave license for a relocated licensee should be surrendered to the FCC when the testing period has expired, and the Commission should issue a public notice so all PCS licensees will be aware that the incumbent has been successfully relocated.

ISSUES REQUIRING A RULEMAKING PROCEEDING:

The FCC Should Initiate A Rulemaking Proceeding and Adopt A Mandatory Cost Sharing Plan based on PCIA's Consensus Proposal. To facilitate the rapid relocation of the microwave licensees in the 2 GHz band, the FCC should adopt rules consistent with the proposal filed by PCIA. The PCIA proposal protects the interests of PCS providers and microwave incumbents, takes advantage of the efficiencies from a coordinated relocation process, and minimizes the administrative burden on the Commission.

No Additional Microwave Links in the PCS Spectrum Should Be Granted Primary Status. The initial PCS auctions have been completed and PCS providers are beginning to relocate microwave incumbents in their license areas and deploy PCS systems. Any new links granted primary status by the Commission will only increase the number of links that PCS providers must relocate and delay the delivery of PCS to the public.

PCS Providers Should Be Allowed to Hold a Relocated Microwave Incumbent's License During the Testing Period. The FCC should modify its rules to allow a PCS provider to hold the incumbent's license during the 12 month testing period. This will ensure that at the end of the testing period when the incumbent is satisfied with its new system, the PCS provider can surrender the license to the FCC and see that a public notice is issued.

* * *

Swift action by the Commission to address these issues and ensure that the deployment of PCS is not delayed and that these new services are available to the public on an expedited basis.



A city skyline at night, viewed from the San Diego River and the San Diego Bay Bridge.

Found Money on City's Info Highway

By Melinda Powellson

John Eger, San Diego's self-professed wizard of telecommunications, has an interesting history. A former CBS broadcasting executive, Eger has advised the likes of past presidents Richard Nixon and Gerald Ford on telecommunications. And since moving to

San Diego six years ago, Eger has succeeded in making himself an indispensable advisor to Mayor Susan Golding.

Two years ago, Eger, now a

professor at San Diego State, was appointed to the board of the San Diego Data Processing Center, a city-owned agency that provides the city with computer services. He also serves as chairman of Golding's City of the Future Committee, a group intended to make San Diego the "hub of information technology."

Now Eger is involved in another city project — but this time, he's getting paid. Last month, City Manager Jack McGroarty awarded a \$245,000 contract to a nine-member consulting team led by the Washington, D.C. law firm,

Keller and Heckman. Eger will serve as the group's "strategic advisor" for a fee of \$270 an hour.

The consultants' assignment: to help negotiate a deal that may be worth millions of dollars to taxpayers. Or maybe not.

Next year, big cable and telephone companies want to begin offering a new kind of "personal communication system," supposed to revolutionize the way America communicates. Tiny pocket cellular phones will be able to take incoming calls and pages and serve as an answering machine — all for a minimal fee.

But before telecommunications companies can proceed, they have to clear airwaves currently used by local government for police, fire, and ambulance transmissions. Cities have been ordered to find another frequency on the spectrum for their networks. By law, the new occupants of the frequencies must pay for the expensive equipment required to build new systems for the cities.

Tension is mounting: the cities want to be compensated for moving, while communications companies, anxious to market their products as soon as possible, say they don't want to be extorted.

The Keller and Heckman team is being paid to determine how much money the city should charge for the move. The law firm will also evaluate unspecified "strategic partnerships" with telecommunications firms.

"That has John Eger's fingerprints all over it," says Michael Shames of UCAN

(Utilities Consumer Action Network), a consumer watchdog group. He points out that Eger has encouraged public-private partnerships in the past.

Other cities across the country are grappling with the same problem. But instead

"We wanted to move quickly on this and not hold up the new technology," says Richard Wilken of the city's communications department. "The issues that we are facing are highly technical. There are going to be very complex negotiations."

That's where Eger and the consulting team comes in. "We didn't have the expertise to participate in these negotiations," Wilken explains. "so we hired a consultant to come up with a plan." The city reviewed three applicants and ultimately chose Keller and Heckman. The team is led by Richards, who specializes in telecommunications. Other participants include Charles J. Lockman and Jeffrey Roberts, of the Strategic Policy Research Center in Maryland; Mark L. Evans and Klaus Bender of the Industry Telecommunications Association; and Eger, who heads up "strategic planning." (Like Eger, Roberts and Evans also charge \$270 an hour.)

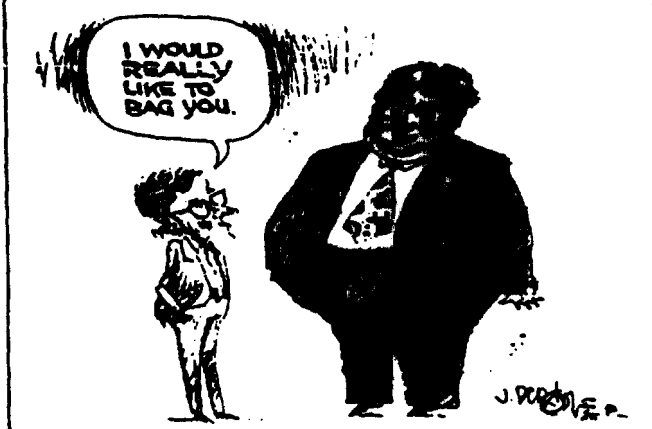
Wilken admits that Eger's participation gave the Keller and Heckman proposal an advantage over the other consultants. "We liked the fact that they had someone who knew what the situation here was," Wilken says, adding, "I absolutely don't think it's a conflict."

Shames disagrees, saying Eger's participation raises some important questions.



Michael Shames

CHRISTO MEETS COPLEY



of hiring costly consultants. Los Angeles, San Francisco, Portland, and Seattle are all handling the negotiations on their own. "We don't want to waste the taxpayers' money," says Joel Harrington of Portland. "This is an issue of securing emergency communications — not about making Washington, D.C. lawyers rich."

The debate began when the Federal Communications Commission (FCC) decided to reevaluate how it divided the radio spectrum. To accommodate the booming cellular industry, the FCC ordered the cities to move.

Telecommunications giant Pacific Telesis and Cingular have paid \$20 million to secure licenses in San Diego for the new wireless services. Both companies say they want to be on the air and start marketing their services by 1996.

"We really don't know why [Eger] sits on the City of the Future Committee," Shames says. "Did he do it because he is really interested in finding the best services for the city? Or did he do it so that he could get lucrative city contracts?"

Two weeks ago, Cindy Mich, Eger's secretary, said her boss was traveling abroad and that she would contact Eger about questions regarding his role in the consulting project. Eger did not return calls. In response to subsequent requests, Mich said Eger was still out of the country.

"We determined that Mr. Eger's role in the mayor's City of the Future Committee had nothing to do with the contract we are talking about," says Assistant City Attorney Curtis Fitzpatrick. "The Committee is not going to vote on

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any of the microwave relocation issues. The city is not going to take the position that everyone who has volunteered for a committee is trying to get a contract. That is not a legal issue."

No other major West Coast city has hired outside consulting firms to assist with negotiations. "We are handling this in-house," says Ken Chan, of the City of Los Angeles, which is also negotiating with Pacific Televis and Cox Cablevision. "We have already been notified of their intent to use our microwave bands, and we are beginning the negotiation process," he says. Chan estimates that it

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will cost the companies roughly \$1 million to move the city's system.

Portland communication director Harrington says his city has also decided to negotiate without consultants.

"The only people who are going to benefit from this are the high-priced consultants, who get paid ridiculous amounts of money. Most cities should be able to do this on their own."

San Diego's Wilken disagrees. "This is a very complicated area of the law, and it's an important decision for San Diego. We wanted to make certain that we understood all of the options available to us in these negotiations." Furthermore, he adds, the consulting fees will ultimately be paid by Pacific Televis and Cox — not the taxpayers.

Chan says that his department never even considered the possibility of public-private partnerships. "All we want to do is protect the city's emergency communications network," he says. "This is an opportunity to upgrade our system, at no expense to the taxpayers. I don't think it is appropriate to be speculating about public-private ventures."

Portland's Harrington agrees. "This isn't about looking for opportunities to make money. This is about securing emergency communications systems for the metropolitan area. We've already moved our entire communications system. What I want to do is recoup some of the cost of the relocation."

But San Diego's Wilken says that Portland and L.A. may be missing out on a once-in-a-lifetime opportunity. "We have been getting calls from all over the U.S. asking us for advice," he says. "We want to make sure that we build a state-of-the-art communications network."

However, industry analysts warn that San Diego shouldn't be so eager.

"There are some heightened expectations out there that have to be dealt with. 'Bilking' would not be too strong of a word," says Mark Golden, of the Personal Communications Industry Association.

"Everyone thinks that because [Pacific Televis and Cox] have paid millions for the licenses, that they have limitless deep pockets," continues Golden. "City officials think that they may have discovered a way to help balance the budget. That is categorically untrue — and unfair to the industry. This should be a win-win for everybody."

Wilken says San Diego has no intention of extorting money from the providers. "We want to resolve this issue to the benefit of the taxpayers, but we don't intend to do it at the cost of the new technology." ■